

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

042933/267065

(filed with the Notice of Appeal)

Application Number

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First Named Inventor

Wu et al.

Art Unit

2152

Examiner

Thomas J. Dailey

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

Respectfully submitted,



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REMARKS/ARGUMENTS

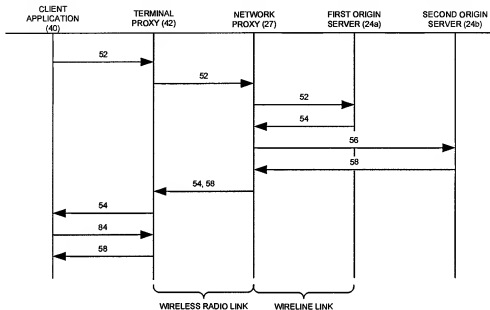
These remarks are hereby filed concurrent with a Pre-Appeal Brief Request for Review, following a final Official Action dated March 28, 2008, and an Advisory Action dated May 30, 2008. The present application includes pending Claims 1-5, 7-12, 14-19, 21, 22, 24-29, 31, 32 and 34-38. Pending Claims 15-19, 21, 25-29 and 31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by PCT Patent Application Publication No. WO 01/33804 to Leppinen; and the remaining claims, namely Claims 1-5, 7-12, 14, 22, 24, 32 and 34-48, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leppinen, in view of Official Notice of facts outside the record. As explained below, Applicants respectfully submit that the claims are definite, and patentably distinct from Leppinen, alone or in view of any proper Official Notice. In view of the remarks presented herein, Applicants respectfully request reconsideration and withdrawal of the rejections of all of the pending claims.

Initially, Applicants note that the remarks provided below were also presented in response to the final Official Action, and that the subsequent Advisory Action did not present any response to those remarks. In fact, the Advisory Action erroneously refers to amendments to the claims, and their not being entered after final due to their raising new issues requiring further consideration. In this regard, Applicants note that the amendments mentioned in the Advisory Action were not in fact presented after final rejection and were entered some time ago, but in response to a previous non-final Official Action, a fact the Examiner acknowledged with Applicants' representative during a brief telephone conference on June 5, 2008.

A. Claims 15-19, 21, 25-29 and 31 are Patentable

As indicated above, pending Claims 15-19, 21, 25-29 and 31 stand rejected as being anticipated by Leppinen. Independent Claim 15 (parenthetically referenced to FIG. 3 solely to illustrate one exemplary scenario) recites an apparatus including a processor (network proxy 27) configured to communicate with a host (24a) over a second network (wireline link) independent of a first network (wireless radio link), and configured to receive a first response (54) from the host. As recited, the first response includes a redirection to a resource at a second location and is responsive to a first request (52) sent from a terminal (including a terminal proxy 42) to the host over the first network and the second network, the first request identifying the resource at a first location on the host. The processor is configured to reformulate the first request into a second request (56) that identifies the resource at the second location, and thereafter send the second request to a host (24b) of the resource at the second location such that the respective host

responds to the second request with a second response (58). The processor, then, is configured to send the first response (54) and the second response (58) to the terminal proxy.



Present Application, FIG. 3

In contrast to independent Claim 15, Leppinen fails to teach or suggest at least sending first and second responses to the terminal proxy, the first response including a redirection to a resource at a second location. Applicants again note that the Official Action alleges that the gateway server of Leppinen transmits the new location of the resource (new URL) and the requested resource to the mobile station, and that the new URL of the resource corresponds to the recited first response. As explained in response to the second, non-final Official Action, even if one could argue that the new URL of the resource may reasonably correspond to a first response, however, nowhere does Leppinen teach or suggest that the new URL includes, or is sent to the mobile station with, a redirection to the resource at the new URL, similar to independent Claim 15 reciting the first response including a redirection. Leppinen may disclose that its gateway server receives a response from the web server including a redirection and the new URL; but nowhere does Leppinen teach or suggest that this response is sent to any proxy of the mobile station.

In response to the foregoing, the final Official Action again noted that Leppinen discloses its gateway server receiving a response including a redirection message. This disclosure of Leppinen, however, still does not meet the claimed first response that not only includes a

redirection, but is also sent to the terminal (or more precisely, the terminal's terminal proxy), as per independent Claim 15. That is, even if one could argue that Leppinen's gateway server receives an HTTP redirection message corresponding to the recited first response including a redirection, Leppinen fails to further disclose that the HTTP redirection message (first response) is sent to the mobile station. And even if one could argue that the HTTP redirection message (first response) includes a new URL, which the gateway server does send to the mobile station, independent Claim 15 recites that the first response itself (recited as including the redirection) and not just any indication of a new location that may be included therein, is sent to the terminal's proxy.

Applicants therefore respectfully submit that independent Claim 15, similarly independent Claim 25, and by dependency Claims 16-19, 21, 26-29 and 31, are patentably distinct from Leppinen.

B. Claims 1-5, 7-12, 14, 22, 24, 32 and 34-48 are Patentable

Pending Claims 1-5, 7-12, 14, 22, 24, 32 and 34-48 stand rejected as being unpatentable over Leppinen in view of Official Notice of facts outside the record. Independent Claim 8 recites a method for requesting a resource over one or more networks. As recited (and again parenthetically referenced to FIG. 3 solely to illustrate one exemplary scenario), a first request (52) for the resource is sent from a terminal (including a client application 40) to a host (24a) over a first network (wireless radio link) and a second network (wireline link), the first request identifying the resource at a first location on the host. The host receives the first request and replies with a first response (54). A network proxy (27) receives the first response from the host over the second network independent of the first network. The network proxy then reformulates the first request into a second request (56) that identifies the resource at a second location, and thereafter sends the second request to a host (24b) of the resource at the second location for that host to respond with a second response (58).

As further recited, the method also includes sending the first response (54) and the second response (58) to a terminal proxy (42), and sending the first response to the client application (40) such that, in response to the first response, the client application reformulates the first request into a third request (64) that identifies the resource at a second location. The third request is sent from the client application to the terminal proxy, and thereafter the second

response is sent to the client application. In this regard, the first response is sent to the client application, the third request is sent to the terminal proxy, and the second response is sent to the client application, independent of the first network (wireless radio link).

In contrast to independent Claim 8, and as conceded by the Official Action, Leppinen does not teach or suggest the recited method including a terminal proxy receiving both first and second responses and providing the first response to the terminal client; the terminal client then, in response to the first response, formulating a third request (e.g., new, redirected request) that the terminal proxy receives and responds to with the second response, the communication between the terminal client and terminal proxy occurring independent of the first network. Nonetheless, the Official Action takes Official Notice that this feature is well known to those skilled in the art given the explicit disclosure of Leppinen. Applicants respectfully disagree, and traverse the Official Notice taken by the Official Action.

According to the MPEP § 2144.03(A.), Official Notice can only be taken of facts that are “capable of instant and unquestionable demonstration as being well-known.” Citing *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970), the MPEP continues by explaining that “the notice of facts beyond the record which maybe taken by the examiner must be ‘capable of such instant and unquestionable demonstration as to defy dispute.’” Applicants respectfully submit that the Official Action did not, in fact, take Official Notice of facts capable of instant and unquestionable demonstration as being well known so as to defy dispute.

As explained in response to the second, non-final Official Action, the basis for the Official Notice seems to be that by Leppinen’s mobile station receiving the new URL of a resource (alleged first response) and accordingly updating a history file, it would have been well known and obvious for the mobile station to formulate a subsequent request for that resource based on the new URL, and that this subsequent request corresponds to the recited third request. Even if one could argue that it would have been obvious for Leppinen’s mobile station to formulate a subsequent request for the resource based on the new URL (although expressly not admitted), that does not support the mobile station formulating that subsequent request in response to receiving the new URL (alleged first response), similar to the recited client application reformulating the first request into the third request in response to the first response. Leppinen explicitly discloses that its mobile station receives the resource with the resource’s new

URL; and as such, Applicants question the extent the mobile station would even respond to the new URL by again requesting the resource.

Moreover, the obviousness of any subsequent request by Leppinen's mobile station does not support that the subsequent request is serviced by a terminal proxy configured to communicate with the requesting application independent of a first network (over which – along with a second network – the mobile station would have had to send a former, first request for the resource at an old URL). That is, the Official Action has not supported any Official Notice that it would have been well known and obvious for a proxy to receive the resource and new URL, send the new URL to the mobile station such that, in response to the new URL, the mobile station formulates a third request to the proxy such that the proxy then sends the resource to the mobile station. Rather, at best, one could argue that that any subsequent resource request using the new URL of Leppinen is serviced by the web server of the new URL or the gateway server, neither of which may reasonably correspond to the recited terminal proxy since both are across the alleged first network from the mobile station.

In response to the foregoing, the final Official Action alleged that although a subsequent resource request may use the new URL of Leppinen, that request need not be serviced by the web server or gateway server, but may instead be serviced from a cache. Thus, under the interpretation of the Official Action, it would have been obvious to modify Leppinen such that its MS receives a new URL (first response) and requested resource (second response), and services a subsequent request (third request) from a cache of the previously requested and received resource (second response). Again, even if one could argue that it would have been obvious to modify Leppinen in this manner, the modified Leppinen still would not teach or suggest formulating the subsequent request (third request) in response to its being sent the new URL or even just in response to the new URL in general. Nowhere under Leppinen alone or in combination with any alleged Official Notice does the mobile station reformulate a subsequent request in response to the new URL, similar to independent Claim 8 reformulating a first request into a third request.

Applicants therefore respectfully submit that independent Claim 8, similarly independent Claims 1, 22 and 32, and by dependency Claims 2-5, 7, 9-12, 14, 24 and 34-38 are patentably distinct from Leppinen, and that the Official Action did not support any proper Official Notice to cure the deficiencies of Leppinen.